

# Early Marriage: A Gender-Based Violence and A Violation of Women's Human Rights in Nigeria

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## Abstract

Child marriage customs occur all over the world, whereby children are given into marriage well before they attain puberty in most cases or even the age to get married as defined by several laws in Nigeria and other countries of the world. It is a common thing today to find a prevalence of such practices widespread in several parts of the world particularly in Africa, Asia, and South America. Often times, child marriages are frequently associated with marriages that are conceived and arranged by parents, whereby, only one marriage-partner usually the female is a child. This practice has prevailed despite the fact that many countries in Africa have a legal regime on the minimum age for marriage which is either pegged on 16 or 18 depending on the country. Some reasons adduced in favour of the practice like conflict, poverty, religion, and tradition escalates incidence of early marriages in Sub-Saharan Africa.

In Nigeria, A significant number of early marriage is prevalent in most cultures in the country with most girls married off by age 15, and several others married off by the time they attain the age of 18. This practice is extremely prevalent in some communities in the Northwest region of Nigeria. However, in recent times it is noteworthy that the activities of human rights groups condemning child marriages and highlighting its attendant consequences have considerably brought about a remarkable decline of the practice in several parts of Nigeria.

In this paper, we examined the high incidence of early marriage in Nigeria and argued that despite the availability of legal regime on early marriage as well as Nigeria's international human rights obligations, much more work is needed to eliminate the detrimental cultural practice of child marriage of young girls in Nigeria and proffered a solution to its menace.

**Keywords:** early marriage, child, customs, gender-based, human rights, violation.

## 1. Introduction

All over the world certain harmful traditional norms and practices which are customary, cultural and sometimes religious actions taken in a community that undermine the dignity of women exist. Such practices are in most cases carried out to the detriment of young girls and women who are incapable of resisting them at the time of its occurrence due to societal values placed on such practices. Early Marriage is one aspect of harmful traditional practice which is embedded in the traditional behaviour, attitudes, and or practices of the people, which adversely affects and violates the fundamental rights of women and girls. Other harmful traditional practices include harmful widowhood practices, denial of inheritance or succession rights (Note 1), honour killing, son preference, female genital mutilation, or female circumcision and forced marriage. (WACOL) Harmful traditional practices act as root causes for discrimination and violence against women in different societies of the world; they are socially constrained forms of violence, which have long been accepted as tradition. In this work, an attempt will be made to examine the harmful practice of early marriage as a violation of the human rights of women in Nigeria and proffer a solution to its malaise.

## 2. Overview of Early Marriages

Early marriage, which is also sometimes called child marriage, is very common affecting children who are as young as 9 years old. Ironically some of these young girls actually reach puberty in the houses of their husbands. The practice sometimes, is that very young girls are given in marriage to husbands who are old enough to be their grand fathers and are commanded to remain there and be good wives. Violence occurs when the child

refuses sex; she is violently assaulted sexually and ends up being pregnant at a very early age. Many of these girls experience obstructive labour and consequently develop fistula and are abandoned by both husbands and parents to their fate (Childs Right Information Network, 2011). In many of these early marriages, the children are given to the men free for economic gains to the family or to build alliances for business or political benefits. In Nigeria, early marriage is a widespread practice, particularly in the northern part of the country. There, it is believed erroneously that when a girl is married off early, she does not have the opportunity to become promiscuous. It is also believed in most parts of northern Nigeria that it is permissible for a man to marry a child as young as the age of 9 as long as sexual relations with her is postponed until she has attained puberty. But unfortunately in almost all the cases, the child brides are forced into sexual intercourse with their spouses as soon as they are married resulting in very early pregnancy and resulting into vesico vaginal fistula (VVF) obstetric fistula, when such girls give birth eventually at very tender ages. This traditional practice is certainly violence to the girl-child and it is prevalent in several countries in Africa as well. The Justification for toleration of the practice of childhood marriage was twofold; (Note 2) the prevalence of customs and perceived religious reasons by families on the basis of the importance placed on virginity at the time of marriage; it was believed that child marriage will foreclose possibilities of sexual contact that would tarnish the family honour. Poverty was another reason for this practice,

Early marriage of young girls in the family leaves fewer children to be fed in the home and this can also attracts higher bride price from suitors or conversely a younger bride could attract a smaller dowry depending on where one stands on the divide.

It is obvious that early marriages are definitely harmful to girls as it robs them of their childhood innocence and turns them into “adults” prematurely. The tender ages in which they are given into marriage render them unable to negotiate safe sex and are therefore vulnerable to diseases and domestic violence. There is also the trauma of relationship with an old man the age of their fathers and grand fathers. In most cases, early marriage deprives a girl-child the opportunity of education, as she begins early to bear children at a very tender age and cater for them instead of going to school. The sad thing about this situation is that, it is contrary to Nigeria’s obligation in international law to guarantee the girl child’s access to education and freedom from discrimination in the educational sphere (The Convention On The Rights of The Child, 1989). In 2000 the Cross River State House of Assembly in Nigeria passed a landmark bill prohibiting early marriages in that state. In the Eastern States of Nigeria, there also exists a law that fixed the minimum age for customary law marriages. 16 years is the minimum age for marriage under this law. According to Olateru-Olagbegi B. B, (2011) the fact is that, this law is ineffective and moribund as there is still some incidence of child marriage in various communities in Eastern Nigeria with its attendant evils particularly to the health of the girl-child who has been married off prematurely. Bauchi State of Nigeria also has a law dealing with early marriages. Early marriage is accepted and practiced by a number of tribes and communities all over Nigeria just as it is elsewhere, the attendant evils are also the same even in those places. The incidence of early marriages described earlier, is very common particularly amongst Moslem communities in Nigeria. The unfortunate aspect of early marriage is that, as a result of its extremely religious and cultural worth in the communities where it is practiced, child marriage enjoys the support and patronage of the entire community, it is so condoned that members of the community would conceal the practice rather than expose perpetrators. (Dhital, 2011).

Islamic law seems to condone early marriage to a child and supports the right of men in law, over their female counterparts. Islamic scholars assert that there is no age limit fixed by Islam for marriage; children of the youngest age may be married or betrothed even though they insist that a girl should not be allowed to get married until “she is ripe for marital sexual relations” (note. 3). Perhaps this accounts for the prevalence of the practice of child marriages in Northern Nigeria where very young girls between 12 and 14 are withdrawn from primary schools, to get married to husbands as old as their grand fathers.

The pathetic case of Hauwa Abubakar, a 9 year old girl who was married off to one Mallam Shehu Garuba Kiruwa a 40 year old cattle dealer is instructive here. Hauwa’s father was indebted to the proposed husband and as a settlement for the debt forcefully gave Hauwa as wife to Shehu at the tender age of 9. She attempted to escape from the husband’s house unsuccessfully on two occasions as on each occasion she was brought back by her father, on the third occasion; her parents brought her back and to forestall further escape, the husband pinned her down and chopped off her legs with a poisoned cutlass. In reaction to this inhuman treatment, the Government of Bauchi State at the time swiftly enacted a decree empowering Government to prosecute any parent who withdraws a child from school for marriage. (Note 4). Senator Yerima former governor in Nigeria as well as a senator of the federal republic of Nigeria and the 13-year-old child he took as wife from Egypt with the controversy it generated nationwide, some in support of that marriage, others against it, depending on where one

stood in the cultural divide on early marriages is another case in point (Note 5). Senator Yerima's act was a direct contravention of the Nigerian Child Rights Act and Egyptian law. Egyptian law gives the minimum age which a girl can be married as 16 and also prohibits a marriage conducted between a girl and a man 25 years older than her. The Child Rights Act gives the minimum age for marriage as 18 and also states that where a person marries a child under the age of 18, he is liable to a term of 7 years imprisonment and a fine of 500,000 Naira. After agitations by civil societies, women and child rights advocacy groups, the National Agency for Prohibition of Traffic in Persons (NAPTIP) invited Yerima for interrogation. In a statement given by him after being questioned, he stated that as a Nigerian, he has the right to practice his religion and his religion does not give an age for marriage, he has therefore not committed any offence. According to Uren Majau (2012), every girl has dreams about her wedding day, after all it is supposed to be one of the most important days of her life. But somehow it is doubtful that somewhere in that dream any girl imagines she would still be an actual child on that day. Yet that is the reality for many child brides in many different parts of the world. Emphasizing the danger involved in such child marriages, the English court in *Alhaji Mohammed v Knott* (1966), where a Nigerian Moslem man, aged 26 entered into a polygamous marriage in Nigeria with a girl of 13 years and took her to England, when subsequently a complaint was made before the juvenile court that the girl was in need of care, protection, control and was exposed to moral danger, the justices decided that it was immaterial that the marriage was recognized as valid by a court, since the girl was exposed to moral danger, allowing a continuance of the marriage would be repugnant to any decent minded man or woman, accordingly the girl was ordered to be committed to a local authority. Commenting on the incidence of early marriage and its implication on the girl-child, Ladan (2010) surmises thus:

*Another critical protection problem facing girls in Nigeria is the widespread practice of early arranged marriages. A huge number of girls are married off by their parents or guardians in their early teens, when they are too young for their consent to be sought or given. In many cases, they are married to much older men, sometimes men old enough to be their fathers or even grandfathers. Among the numerous implications of early teenage marriage is the increased likelihood of early pregnancy, with its attendant heightened risks of maternal mortality and morbidity.*

He stressed further that:

*The practice is a fundamental violation of CEDAW, which in Article 16 states that both partners have "the same right freely to choose a spouse and to enter into marriage only with their free and full consent". Furthermore, the same Article states, "the betrothal and the marriage of a child shall have no legal effect". It adds that states should take all necessary action, including legislation, to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.*

He emphasized that two of the most serious harmful traditional practices affecting girls and women in Nigeria are female genital mutilation and child marriage.

In some parts of Ethiopia and Nigeria several girls are married before the age of 15, some as young as the age of 7 (UNFPA 2005). What is worse about these early marriages is the fact that in most cases married girls are not in school; only a few married girls are in school compared to unmarried girls. Most married girls as a result of early marriage cannot read or write at all. These girls are denied the proven benefits of education, which include self reliance, improved health, self confidence, lower fertility, better judgment and increased economic productivity. Early marriage still poses a lot of problems in most parts of Nigeria, even amongst the people of eastern Nigeria, where it is practiced and justified in the name of tradition, culture, and their religion. What is more, girls in the rural areas are more vulnerable as they are forced into early marriage as a result of poverty. The people in the Eastern parts of Nigeria still believe and succumb to this deep rooted tradition which dates back to pre-historic times. Even though early marriage is prevalent in Nigeria as a whole, northern Nigeria has some of the highest rates of early marriages in the world. Although the practice of polygamy is decreasing in Nigeria, 27 percent of married girls aged 15-19 are in polygamous marriages (Note 6). In the northern parts of Nigeria, girls are forced to marry very young and several have been removed from school as soon as they reached puberty. Many fathers remove girls in rural areas from school at age 12 to get married. Such girls are exposed to gender-based violence, including domestic abuse and sexual violence.

Nigeria is party to a number of international treaties and conventions that explicitly prohibit child marriages and commit States parties to take measures to eliminate the practice. These include the Convention On the Elimination Of All Forms Of Discrimination Against Women (CEDAW 1979), which frowns at early marriage before a girl attains the age of 18 since children lack 'full maturity and capacity to act.' The Convention on

Consent to Marriage, Minimum Age for Marriage (1962), the International Covenant on Civil and Political Rights (ICCPR1966), the International Covenant on Economic, Social and Cultural Rights (ICESCR1966) and the UN Convention on the Rights of the Child (1989). On its part, the Universal Declaration of Human Rights (1948) states that: marriage should be entered only with the free and full consent of the intending spouses. It follows that in situations where one of the parties getting married has not attained the stipulated age of 18, such consent cannot be said to be 'free and full'. D'Onofrio, Eve (2005), posits that laws regarding child marriage vary in the different states of the United States. Generally, children 16 and over may marry with parental consent, with the age of 18 being the minimum in all but two states to marry without parental consent. Those under 16 generally require a court order in addition to parental consent. In Yemen, Widespread child marriage jeopardizes Yemeni girls' access to education, harms their health, and keeps them second-class citizens, Human Rights Watch said in a report released three years ago. The report which comprised of 54-pages, documented the lifelong damage to girls who are forced to marry young. Yemeni girls and women narrated to Human Rights Watch how child marriages are forced on families and women having no control over whether and when to bear children and other important aspects of their lives. The women complained that marrying early had brought an abrupt end to their education, and some said they had been subjected to marital rape as well as domestic abuse. (Note 7). The unfortunate thing is that, there is no legal minimum age for girls to marry in Yemen. Many girls are forced into marriage, and some are as young as 8. In April 2008 in Yemen, Nujood Ali, a 10-year-old girl successfully obtained a divorce after being raped in the guise of early marriage. Her case prompted calls to raise the legal age for marriage to 18. Later in 2008, the Supreme Council for Motherhood and Childhood proposed to define the minimum age for marriage at 18 years. The law was passed in April 2009, with the age voted for as 17. Unfortunately the law did not see the light of day as it was dropped the following day following maneuvers by opposing parliamentarians. Meanwhile, Yemenis inspired by Nujood's efforts continue to push for change, with Nujood involved in at least one rally (Power Carla 2009).

### **3. Rationale for Early Marriages**

Several reasons have been adduced for the prevalence of child marriages. Sometimes, it may depend upon socio-economic factors. In some instances, they are used to secure and maintain political ties. Families cement financial and or political ties by having their children marry. The betrothal is considered a binding contract upon the families and the children. In such cases breaking the betrothal can have serious consequences for the families as well as for the betrothed individuals themselves. Again in certain cultures, where daughters are considered a liability, poor people in the society willingly give out their daughters for marriage early.

Poverty, religion, tradition, and conflict also take the center stage of child marriages in Sub-Saharan Africa. Indeed several marriages are tied to poverty, with parents needing the bride price of a daughter so as to feed, clothe, educate, and provide for the rest of the family. Meanwhile, a male child in these countries is more likely to gain a full education, gain employment, and pursue a working life, and marrying later at his own time. In many parts of Africa, a man pays a bride price to the girl's family in order to marry her.

This payment usually made by way of cash, cattle, or other valuables, is believed to reduce as a girl gets older. Gender inequality is one cause of early marriage. In most communities, the age long patriarchal lining of the people leave women and girls often occupying the lower rung in the societies, consequently women and girls are denied their rights and ability to play an equal role like their male counterparts in the communities as well as and fulfill their ambition and potential. The frequency of wars and conflicts all over the world also puts pressure on parents to give their underage girls into marriage as during such periods, they are belaboured with economic pressure.

### **4. Way Forward in Curbing Early Marriages**

It is suggested that all hands must be on deck to raise awareness of the extent of early marriage and the human rights abuse it constitutes in our society particularly in the northern region. Authorities at state-level should be encouraged to adopt the federal law that establishes 18 as the legal age of marriage for girls, particularly those states that do not have laws on early marriage.

Human rights and other civil society groups should raise awareness of parents, community leaders, and policymakers by way of public campaigns and jingles about the health implications of young girls marrying much older men and getting pregnant at a very tender age. Encourage governments and communities to commit to getting girls to school on time and to keeping them in school through the secondary level, reiterating the fact that being in school during adolescence has important health and developmental benefits for girls. The point cannot be overemphasized that enrolling and keeping girls in school will give them the advantage of education and ability to make the proper choice. This point is a decisive step in eradicating early and forced marriage as it

will afford young girls knowledge that will improve their wellbeing. There is also necessity to develop social and economic programs for girls who have dropped out of school as a result of early marriage, including non-formal education programs. This will bring about some measure of exposure and improve their living standards. There is need for a regime of reforms, including taking measures that guarantee equality between boys and girls.

It may be necessary for States with higher ratio of child marriage to enact laws with stiffer penalties banning child marriages which are a major cause of discrimination and abuse against girls and women.

There is need to raise consciousness amongst the people of the extent of early marriage and the human rights abuse it constitutes; communities should be engaged through public campaigns, and incentive schemes; this awareness should be carried to parents, community leaders, and policymakers on the health and rights implications of young girls marrying early. Governments should encourage parents and communities to send girls to school on time and to keep them in school so as to have basic education at the very least.

it is emphasised that, as a result of early marriage which threatens a child's human rights as aforementioned, in order to protect children's rights, the minimum age limit of 18 years in addition to the right of consent should be the basic minimum requirements of validity to every marriage.

### 5. Conclusion

Early marriage acts as a barrier to several girls obtaining basic education as they abandon the pursuit of education and start early to rear children immediately they **enter** into a husband's house. This position even offends the real purport of the millennium development goal No 3.

Child marriage is obviously a violation of the fundamental human rights of women as many girls are forced into marriage against their freewill and consent.

Early marriage is against international conventions mentioned earlier in this work, which placed the legal age of consent to marriage at 18 years. Several governments have purposely overlooked the numerous problems that result from child marriages, including the common and frequent cases of obstetric fistulae, premature births, stillbirth, sexually transmitted diseases (including cervical cancer). Obviously Early marriage results into poor sexual and reproductive health for child brides, as they are incapable of negotiating safe and protected sex with their partners who are much older than they are. Indeed child marriage violates the UN Convention on the Rights of the Child which has been domesticated by several countries including Nigeria.

As each generation must move further than the last in the struggle for human rights to career opportunities for women, it is important that, Nigeria endeavours to prosecute and hold culprits who have been found guilty to account and those who cover up for them if this country will completely eliminate or prevent gender crimes. The truth of the matter is that the violations of the rights of women in the society affect society as a whole and not merely the persons violated.

In its efforts to fight against violations of child rights, UNICEF is fundamentally opposed to forced marriages at any age, particularly child marriage, where the notion of consent is non-existent and the views of the bride or groom, ignored. Indeed in the UN Factsheet: it was reiterated that early marriage union violates the basic human rights of a girl-child because it forces her into a life of isolation, compulsory service, lack of education, health problems, and abuse. It is important that girls are not forced against their wishes to be wives and mothers particularly at a very young age, the National Assembly should seize the opportunity of this political dispensation to correct this injustice that obviously does tremendous harm to the girl- child and set the country on a new course of social justice, including equality for women and girls.

Indeed child marriage is a fundamental violation of human rights and a gender -based violence; especially as these young girls are married out to older men without their free and full consent. More so international best practices and Conventions, dictate 18 years as the legal age of consent to marriage.

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## Notes

- Note 1. Fortunately in the recent case of Ukeje v Ukeje. (2014). LPELR-22724(SC) the Supreme Court of Nigeria has changed this position in Nigeria.
- Note 2. Harmful Traditional Practices in Three Countries of South Asian Culture, Human Rights And Violence Against Women, [http://www.unescap.org/sdd/publications/gender/SDD Pub/2530 pdf](http://www.unescap.org/sdd/publications/gender/SDD%20Pub/2530.pdf), accessed on 6/1/2012.
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- Note 4. UN Report on Children and Women's Rights in Nigeria: A Wake up Call, (2001).
- Note 5. This incident took place in 2010, and was reported in the Nigerian Tribune of May 21<sup>st</sup> 2010 and Vanguard Newspapers of May 18<sup>th</sup> 2010. See also This Day Newspaper of April 26<sup>th</sup> 2010.
- Note 6. Early Marriage in Nigeria - UNFPA Nigeria <http://nigeria.unfpa.org/nigeirachild.html> , accessed on 3/3/2013
- Note 7. Yemen: Child Marriage Spurs Abuse of Girls and Women, [http://www.hrw.org/news/2011/12/08/](http://www.hrw.org/news/2011/12/08/yemen-child-marriage-spurs-abuse-of-girls-and-women) accessed on 3/3/2013

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